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**VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY**

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**VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY  
ENFORCEMENT ACTION - ORDER BY CONSENT  
ISSUED TO  
IKE YODER  
FOR  
7041 CRUMPTOWN ROAD  
Unpermitted Facility**

**SECTION A: Purpose**

This is a Consent Order issued under the authority of Va. Code §§ 62.1-44.15, 62.1-44.15:25, and 62.1-44.15:48, between the Virginia Department of Environmental Quality and Ike Yoder, regarding the property located at 7041 Crumptown Road, Buckingham County, Virginia, for the purpose of resolving certain violations of the State Water Control Law and the applicable regulations.

**SECTION B: Definitions**

Unless the context clearly indicates otherwise, the terms have the meanings assigned to them in Va. Code § 62.1-44.2 *et seq.*, § 62.1-44.15:24 *et seq.*, the Virginia Stormwater Management Program (VSMP) Regulation at 9 VAC 25-870-10., and the General VPDES Permit for Discharges of Stormwater from Construction Activities at 9 VAC 25-880-1.

**SECTION C: Findings of Fact and Conclusions of Law**

1. Ike Yoder ("Yoder") is a current resident of Buckingham County, Virginia. Yoder is a "person" within the meaning of Va. Code § 62.1-44.3.

2. Yoder owns the property located at 7041 Crumpton Road in Buckingham County, Virginia, (Site) from which stormwater associated with construction activity is discharged.
3. DEQ is the Virginia Stormwater Management Program (VSMP) authority for the Site.
4. Ducker Creek is a surface water located wholly within the Commonwealth and is a “state water” under the State Water Control Law.
5. Ducker Creek is located in the Appomattox River Basin. Ducker Creek is listed in DEQ’s 305(b) report as a Category 4A water “Impaired or threatened for one or more designated uses but does not require a TMDL because the TMDL for specific pollutant(s) is complete and US EPA approved.” The Recreation Use was impaired due to E. coli exceedances. The Aquatic Life Use was assessed as fully supporting.
6. “2019 Construction General Permit” means the General VPDES Permit for Discharges of Stormwater from Construction Activities, No. VAR10, promulgated at 9 VAC 25-880-70, which was issued under the State Water Control Law, the VSMP Regulations, and the General Permit Regulation on July 1, 2019 and which expires on June 30, 2024.
7. During the inspection on September 24, 2021, DEQ Stormwater visited the Site and observed that land-disturbing activities greater than one acre occurred in an area subject to stormwater runoff. Yoder did not register for coverage under the 2019 General VPDES Permit for Discharges of Stormwater from Construction Activities, and no other certificate or permit was issued for the discharge of stormwater from construction activities at the Site. Yoder had not submitted a permit application to the VSMP authority and had not obtained VSMP authority approval to begin land disturbance.

Va. Code § 62.1-44.15:34 states: “A person shall not conduct any land-disturbing activity until he has submitted a permit application to the VSMP authority that includes a state VSMP permit registration statement, if such statement is required, and, after July 1, 2014, a stormwater management plan or an executed agreement in lieu of a stormwater management plan, and has obtained VSMP authority approval to begin land disturbance.”

9 VAC 25-870-310(A) states: “Except in compliance with a state permit issued by the [Department] pursuant to the Virginia Stormwater Management Act, it shall be unlawful for any person to discharge stormwater into state waters from . . . land-disturbing activities.”

Va. Code §§ 62.1-44.15:24 and -44.15:34 define “land-disturbing activity” and describe regulated land-disturbing activities (including exemptions), respectively.”

8. During the September 24, 2021 inspection, a Stormwater Pollution Prevention Plan (SWPPP) was not available on-site and was not made available to the Department upon the request of DEQ staff. No notice of the SWPPP’s location was posted near the main entrance of the Site.

9 VAC 25-870-54(A) states “A stormwater pollution prevention plan (SWPPP) shall include, but not be limited to, an approved erosion and sediment control plan, an approved stormwater management plan, a pollution prevention plan for regulated land-disturbing activities, and a description of any additional control measures necessary to address a TMDL pursuant to subsection E of this section.”

9 VAC 25-870-54(G) states in part: “The SWPPP must be maintained at a central location onsite. If an onsite location is unavailable, notice of the SWPPP’s location must be posted near the main entrance at the construction site.

9. During the September 24, 2021 inspection, it was noted that an approved erosion and sediment control plan was not at the Site and Buckingham County informed DEQ during the September 2021 inspection that the VESCP authority had not approved an erosion and sediment control (ESC) plan for the Site.

Va. Code § 62.1-44.15.55 states “Except as provided in § 62.1-44.15.56 for state agency and federal agency land-disturbing activities, no person shall engage in any land disturbing activity until he has submitted to the VESCP authority an erosion and sediment control plan for the land-disturbing activity and the plan has been reviewed and approved.”

9 VAC 25-870-54(B) states: “An erosion and sediment control plan consistent with the requirements of the Virginia Erosion and Sediment Control Law and regulations must be designed and implemented during construction activities. Prior to land disturbance, this plan must be approved by either the VESCP authority or the department in accordance with the Virginia Erosion and Sediment Control Law and attendant regulations.”

10. During the September 24, 2021 inspection, it was noted that a Stormwater Management Plan (“SMP”) for the Site was not available at the time of the inspection.

Va. Code § 62.1-44.15:34. A states in part: “A person shall not conduct any land-disturbing activity until he has submitted a permit application to the VSMP authority that includes a state VSMP permit registration statement, if such statement is required, and, after July 1, 2014, a stormwater management plan or an executed agreement in lieu of a stormwater management plan and has obtained VSMP authority approval to begin land disturbance.”

9 VAC 25-870-54(C) states: “A stormwater management plan consistent with the requirements of the Virginia Stormwater Management Act and regulations must be designed and implemented during construction activities. Prior to land disturbance, this plan must be approved by the VSMP authority.”

11. On December 15, 2021, DEQ issued Stormwater NOV No. 2110-002014 for the referenced violations.
12. On January 10, 2022, Department staff met with Yoder to discuss the violations. Yoder explained to DEQ Enforcement staff that he was planning to seek permit coverage.

13. On January 13, 2022, DEQ Stormwater conducted an additional inspection of the Site and made the following observations:
  - a. DEQ staff observed the site did not have permit coverage.
  - b. A SWPPP was not developed for the site.
  - c. Site stabilization was not established in accordance with 2019 Construction General Permit and ESC minimum standards.
  - d. Erosion and sediment controls (silt fence) were in need of maintenance.
14. On January 22, 2022, Yoder submitted a 2019 Construction General Permit Registration Statement to DEQ for a commercial sawmill on approximately 30 acres.
15. On January 27, 2022, Yoder submitted a draft stormwater plan to DEQ for review.
16. On March 4, 2022, Yoder received ESC Plan Review Approval from Buckingham County.
17. On March 10, 2022, DEQ provided comments to the proposed plans dated January 22, 2022 and received on January 27, 2022.
18. On April 19, 2022, DEQ conducted a follow-up inspection of the Site and made the following observations:
  - a. The site did not have permit coverage. Mr. Yoder submitted plans to DEQ and DEQ provided a response. However, Mr. Yoder had not responded to DEQ's plan comments.
  - b. The location of the SWPPP was not posted at the site's entrance.
  - c. Temporary stabilization was applied but there were several denuded areas and approximately 60% of the site had sparse areas of stabilization. Also, mulching was thin or not observed in several areas.
  - d. Pipes installed in temporary sediment traps did not have inlet protection installed.
  - e. Approximately 100 feet of the conveyance channel on the south side of the site was not adequately lined.
  - f. Diversion dikes were in need of maintenance.
  - g. Sediment trap was in need of maintenance.
19. On January 17, 2023, DEQ received a revised stormwater plan from Mr. Yoder for review and approval.
20. On February 15, 2023, Mr. Yoder received stormwater management plan approval from DEQ and DEQ issued Mr. Yoder permit coverage under the 2019 Construction General Permit and assigned him registration number VAR10S155.
21. Based on the results of the September 24, 2021 inspection, the Department concludes that Yoder violated Va. Code § 62.1-44.5(A), Va. Code § 62.1-44.15:34, Va. Code §§ 62.1-44.15:24, and Va. Code § 62.1-44.15.55 as well as 9VAC25-840-40(A), 9VAC25-870-310(A), 9VAC25-870-54(G), 9VAC25-870-54(A), 9VAC25-870-54(B), and 9VAC25-870-54(C), as described in paragraphs C6 through C9 of this Order.

#### **SECTION D: Agreement and Order**

Accordingly, by virtue of the authority granted it in Va. Code §§ 62.1-44.15, 62.1-44.15:25, and 62.1-44.15:48, the Department orders Yoder, and Yoder agrees to:

1. Pay a civil charge of \$13,650.00 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control  
Department of Environmental Quality  
Post Office Box 1104  
Richmond, Virginia 23218

Yoder shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Stormwater Management Fund. If the Department has to refer collection of moneys due under this Order to the Department of Law, Yoder shall be liable for attorneys' fees of 30% of the amount outstanding.

#### **SECTION E: Administrative Provisions**

1. The Department may modify, rewrite, or amend this Order with the consent of Yoder for good cause shown by Yoder, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order and in NOV No. 2110-002014 dated December 15, 2021. This Order shall not preclude the Department or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, Yoder admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Yoder consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Yoder declares he has received fair and due process under the Administrative Process Act and the State Water Control Law and he waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue

of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Department to modify, rewrite, amend, or enforce this Order.

6. Failure by Yoder to comply with any of the terms of this Order shall constitute a violation of an order of the Department. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Department or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Yoder shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Yoder shall demonstrate that such circumstances were beyond his control and not due to a lack of good faith or diligence on his part. Yoder shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
  - a. the reasons for the delay or noncompliance;
  - b. the projected duration of any such delay or noncompliance;
  - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
  - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Yoder. Nevertheless, Yoder agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:



- a. The Director or his designee terminates the Order after Yoder has completed all of the requirements of the Order;
- b. Yoder petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
- c. the Director or Department terminates the Order in his or its sole discretion upon 30 days' written notice to Yoder.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Yoder from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Yoder and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. Any documents to be submitted pursuant to this Order shall also be submitted by Yoder or an authorized representative of Yoder.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, Yoder voluntarily agrees to the issuance of this Order.

And it is so ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Jerome Brooks, Regional Director  
Department of Environmental Quality

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Ike Yoder voluntarily agrees to the issuance of this Order.

Date: 3-23-23 By: Ike Y Yoder  
(Person)  
Ike Yoder

Commonwealth of Virginia  
City/County of Charlotte

The foregoing document was signed and acknowledged before me this 23rd day of  
March, 20 23, by Ike Y Yoder.

William R. Elliott, IV  
Notary Public

112381  
Registration No.

My commission expires: 11/30/2023

Notary seal:

